

AMENDED IN ASSEMBLY APRIL 14, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1753

Introduced by Assembly Member Hall

February 8, 2010

An act to amend Sections 330a, 330b, and 330.1 of the Penal Code, relating to slot machines.

LEGISLATIVE COUNSEL'S DIGEST

AB 1753, as amended, Hall. Slot machines.

Existing law, subject to exceptions, generally prohibits the possession and use of a "slot machine or device" as defined, and prohibits certain other acts and transactions pertaining to slot machines or devices. Existing law provides varying definitions of "slot machine or device" for these purposes. Violations of these provisions are punishable by varying misdemeanor penalties.

This bill would increase those misdemeanor penalties to provide that a first offense under these provisions would be punishable by a fine of not less than \$500 nor more than \$1,000, or by imprisonment in a county jail not exceeding 6 months, or by both that fine and imprisonment, that a 2nd offense would be punishable by a fine of not less than \$1,000 nor more than ~~\$5,000~~ \$10,000, or by imprisonment in a county jail not exceeding 6 months, or by both that fine and imprisonment, and that a 3rd or subsequent offense would be punishable by a fine of not less than ~~\$5,000~~ \$10,000, nor more than ~~\$10,000~~ \$25,000, or by imprisonment in a county jail not exceeding one year, or by both that fine and imprisonment. The bill would also provide that if the offense involved more than one machine or more than one location, an additional fine of not less than ~~\$100~~ \$1,000 nor more than ~~\$500~~ \$5,000 would by

imposed per machine and per location. ~~The bill would further provide that, for certain purposes, the definition of “slot machine or device” includes any machine or device that offers any prize or consideration with a value greater than the price or amount to play the machine or device, regardless of chance, or the skill or knowledge of the operator, is a slot machine or device, and that the definition of “slot machine or device” for certain other purposes includes “gambling machine” as defined in federal law.~~

~~By expanding the scope of, and increasing the penalties for, existing crimes, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 330a of the Penal Code is amended to
2 read:
3 330a. (a) Every person, who has in his or her possession or
4 under his or her control, either as owner, lessee, agent, employee,
5 mortgagee, or otherwise, or who permits to be placed, maintained,
6 or kept; in any room, space, inclosure, or building owned, leased,
7 or occupied by him or her, or under his or her management or
8 control, any slot or card machine, contrivance, appliance or
9 mechanical device, upon the result of action of which money or
10 other valuable thing is staked or hazarded, and which is operated,
11 or played, by placing or depositing therein any coins, checks, slugs,
12 balls, or other articles or device, or in any other manner and by
13 means whereof, or as a result of the operation of which any
14 merchandise, money, representative or articles of value, checks,
15 or tokens, redeemable in; or exchangeable for money or any other
16 thing of value, is won or lost, or taken from or obtained from the
17 machine, when the result of action or operation of the machine,
18 contrivance, appliance, or mechanical device is dependent upon
19 hazard or chance, and every person, who has in his or her
20 possession or under his or her control, either as owner, lessee,

1 agent, employee, mortgagee, or otherwise, or who permits to be
2 placed, maintained, or kept; in any room, space, inclosure, or
3 building; owned, leased, or occupied by him or her, or under his
4 or her management or control, any card dice, or any dice having
5 more than six faces or bases each, upon the result of action of
6 which any money or other valuable thing is staked or hazarded,
7 or as a result of the operation of which any merchandise, money,
8 representative or article of value, check or token, redeemable in
9 or exchangeable for money or any other thing of value, is won or
10 lost or taken, when the result of action or operation of the dice is
11 dependent upon hazard or chance, is guilty of a misdemeanor.

12 (b) A first violation of this section shall be punishable by a fine
13 of not less than five hundred dollars (\$500) nor more than one
14 thousand dollars (\$1,000), or by imprisonment in a county jail not
15 exceeding six months, or by both that fine and imprisonment.

16 (c) A second offense shall be punishable by a fine of not less
17 than one thousand dollars (\$1,000) nor more than ~~five thousand~~
18 ~~dollars (\$5,000)~~ *ten thousand dollars (\$10,000)*, or by
19 imprisonment in a county jail not exceeding six months, or by both
20 that fine and imprisonment.

21 (d) A third or subsequent offense shall be punishable by a fine
22 of not less than ~~five thousand dollars (\$5,000)~~, nor more than ~~ten~~
23 ~~thousand dollars (\$10,000)~~ *ten thousand dollars (\$10,000)* nor
24 *more than twenty-five thousand dollars (\$25,000)*, or by
25 imprisonment in a county jail not exceeding one year, or by both
26 that fine and imprisonment.

27 (e) If the offense involved more than one machine or more than
28 one location, an additional fine of not less than ~~one hundred dollars~~
29 ~~(\$100) nor more than five hundred dollars (\$500)~~ *one thousand*
30 *dollars (\$1,000) nor more than five thousand dollars (\$5,000)*
31 shall be imposed per machine and per location.

32 SEC. 2. Section 330b of the Penal Code is amended to read:

33 330b. (a) It is unlawful for any person to manufacture, repair,
34 own, store, possess, sell, rent, lease, let on shares, lend or give
35 away, transport, or expose for sale or lease, or to offer to repair,
36 sell, rent, lease, let on shares, lend or give away, or permit the
37 operation, placement, maintenance, or keeping of, in any place,
38 room, space, or building owned, leased, or occupied, managed, or
39 controlled by that person, any slot machine or device, as defined
40 in this section.

1 It is unlawful for any person to make or to permit the making of
2 an agreement with another person regarding any slot machine or
3 device, by which the user of the slot machine or device, as a result
4 of the element of hazard or chance or other unpredictable outcome,
5 may become entitled to receive money, credit, allowance, or other
6 thing of value or additional chance or right to use the slot machine
7 or device, or to receive any check, slug, token, or memorandum
8 entitling the holder to receive money, credit, allowance, or other
9 thing of value.

10 (b) The limitations of subdivision (a), insofar as they relate to
11 owning, storing, possessing, or transporting any slot machine or
12 device, do not apply to any slot machine or device located upon
13 or being transported by any vessel regularly operated and engaged
14 in interstate or foreign commerce, so long as the slot machine or
15 device is located in a locked compartment of the vessel, is not
16 accessible for use, and is not used or operated within the territorial
17 jurisdiction of this state.

18 (c) The limitations of subdivision (a) do not apply to a
19 manufacturer's business activities that are conducted in accordance
20 with the terms of a license issued by a tribal gaming agency
21 pursuant to the tribal-state gaming compacts entered into in
22 accordance with the Indian Gaming Regulatory Act (18 U.S.C.
23 Sec. 1166 to 1168, inclusive, and 25 U.S.C. Sec. 2701 et seq.).

24 (d) For purposes of this section, "slot machine or device" means
25 a machine, apparatus, or device that is adapted, or may readily be
26 converted, for use in a way that, as a result of the insertion of any
27 piece of money or coin or other object, or by any other means, the
28 machine or device is caused to operate or may be operated, and
29 by reason of any element of hazard or chance or of other outcome
30 of operation unpredictable by him or her, the user may receive or
31 become entitled to receive any piece of money, credit, allowance,
32 or thing of value, or additional chance or right to use the slot
33 machine or device, or any check, slug, token, or memorandum,
34 whether of value or otherwise, which may be exchanged for any
35 money, credit, allowance, or thing of value, or which may be given
36 in trade, irrespective of whether it may, apart from any element of
37 hazard or chance or unpredictable outcome of operation, also sell,
38 deliver, or present some merchandise, indication of weight,
39 entertainment, or other thing of value. ~~Additionally, except as~~
40 ~~provided in subdivision (f), any machine or device that offers any~~

1 prize or consideration with a value greater than the price or amount
2 to play the machine or device, regardless of chance, or the skill or
3 knowledge of the operator, is a slot machine or device for purposes
4 of this section.

5 (e) Every person who violates this section is guilty of a
6 misdemeanor.

7 (1) A first violation of this section shall be punishable by a fine
8 of not less than five hundred dollars (\$500) nor more than one
9 thousand dollars (\$1,000), or by imprisonment in a county jail not
10 exceeding six months, or by both that fine and imprisonment.

11 (2) A second offense shall be punishable by a fine of not less
12 than one thousand dollars (\$1,000) nor more than ~~five thousand~~
13 ~~dollars (\$5,000)~~ *ten thousand dollars (\$10,000)*, or by
14 imprisonment in a county jail not exceeding six months, or by both
15 that fine and imprisonment.

16 (3) A third or subsequent offense shall be punishable by a fine
17 of not less than ~~five thousand dollars (\$5,000)~~ *ten thousand dollars (\$10,000)* nor
18 ~~more than ten thousand dollars (\$10,000)~~ *more than twenty-five thousand dollars (\$25,000)*, or by
19 imprisonment in a county jail not exceeding one year, or by both
20 that fine and imprisonment.

21 (4) If the offense involved more than one machine or more than
22 one location, an additional fine of not less than ~~one hundred dollars~~
23 ~~(\$100) nor more than five hundred dollars (\$500)~~ *one thousand*
24 *dollars (\$1,000) nor more than five thousand dollars (\$5,000)*
25 shall be imposed per machine and per location.

26 (f) Pinball and other amusement machines or devices, which
27 are predominantly games of skill, whether affording the opportunity
28 of additional chances or free plays or not, are not included within
29 the term slot machine or device, as defined in this section.

30 SEC. 3. Section 330.1 of the Penal Code is amended to read:

31 330.1. (a) Every person who manufactures, owns, stores, keeps,
32 possesses, sells, rents, leases, lets on shares, lends or gives away,
33 transports, or exposes for sale or lease, or offers to sell, rent, lease,
34 let on shares, lend or give away or who permits the operation of
35 or permits to be placed, maintained, used, or kept in any room,
36 space, or building owned, leased, or occupied by him or her or
37 under his or her management or control, any slot machine or device
38 as hereinafter defined, and every person who makes or permits to
39 be made with any person any agreement with reference to any slot
40

1 machine or device as hereinafter defined, pursuant to which
2 agreement the user thereof, as a result of any element of hazard or
3 chance, may become entitled to receive anything of value or
4 additional chance or right to use that slot machine or device, or to
5 receive any check, slug, token, or memorandum, whether of value
6 or otherwise, entitling the holder to receive anything of value, is
7 guilty of a misdemeanor.

8 (b) A first violation of this section shall be punishable by a fine
9 of not more than one thousand dollars (\$1,000), or by imprisonment
10 in a county jail not exceeding six months, or by both that fine and
11 imprisonment.

12 (c) A second offense shall be punishable by a fine of not less
13 than one thousand dollars (\$1,000) nor more than ~~five thousand~~
14 ~~dollars (\$5,000)~~ *ten thousand dollars (\$10,000)*, or by
15 imprisonment in a county jail not exceeding six months, or by both
16 that fine and imprisonment.

17 (d) A third or subsequent offense shall be punishable by a fine
18 of not less than ~~five thousand dollars (\$5,000)~~ *ten thousand dollars (\$10,000)* nor
19 ~~more than ten thousand dollars (\$10,000)~~ *more than twenty-five thousand dollars (\$25,000)*, or by
20 imprisonment in a county jail not exceeding one year, or by both
21 that fine and imprisonment.

22 (e) If the offense involved more than one machine or more than
23 one location, an additional fine of not less than ~~one hundred dollars~~
24 ~~(\$100) nor more than five hundred dollars (\$500)~~ *one thousand*
25 *dollars (\$1,000) nor more than five thousand dollars (\$5,000)*
26 shall be imposed per machine and per location.

27 (f) A slot machine or device within the meaning of Sections
28 330.1 to 330.5, inclusive, of this code is one that is, or may be,
29 used or operated in such a way that, as a result of the insertion of
30 any piece of money or coin or other object the machine or device
31 is caused to operate or may be operated or played, mechanically,
32 electrically, automatically or manually, and by reason of any
33 element of hazard or chance, the user may receive or become
34 entitled to receive anything of value or any check, slug, token, or
35 memorandum, whether of value or otherwise, which may be given
36 in trade, or the user may secure additional chances or rights to use
37 such machine or device, irrespective of whether it may, apart from
38 any element of hazard or chance, also sell, deliver or present some
39 merchandise, indication of weight, entertainment or other thing of
40

1 value, and includes a “gambling device” as defined in Section
2 1171(a)(1) of Title 15 of the United States Code: *value*.

3 SEC. 4. No reimbursement is required by this act pursuant to
4 Section 6 of Article XIII B of the California Constitution because
5 the only costs that may be incurred by a local agency or school
6 district will be incurred because this act creates a new crime or
7 infraction, eliminates a crime or infraction, or changes the penalty
8 for a crime or infraction, within the meaning of Section 17556 of
9 the Government Code, or changes the definition of a crime within
10 the meaning of Section 6 of Article XIII B of the California
11 Constitution.